

REMARKS


Claims 1- 21 are currently pending. The Examiner has required restriction of the claimed invention, and listed the following group classifications:

Group	Claims	Description
I	1-15	drawn to methods of identifying bacteria
II	16-21	drawn to kits comprising nucleic acid arrays

In order to further their business interests, Applicants hereby elect Group I (Claims 1-15), without traverse. Claims 16-21 are hereby cancelled without prejudice to their prosecution in the future. In addition, Applicants hereby amend Claims 1 and 9. The amendments to the claims do not introduce new matter, and are provided in order to further the prosecution of the present application and Applicants' business interests, while reserving the right to prosecute the original, similar, or broader claims in one or more future application(s). None of the amendments to the claims is intended to narrow the scope of any of the amended claims within the meaning of *Festo*.¹

In particular, Claims 1 and 9 have been amended to recite "amplified genomic sequence," and "labeled reference DNA from at least four strains of bacteria." Support for the term "amplified" is found in Example 1 which reads "[a]mplified genomic DNA fragments..." (Specification, at page 31, lines 16-17). In addition, support for the phrase "at least four strains of bacteria" is found in Example 2 which reads "[m]ixtures of genomic DNA (1 ug) from the four reference strains (1:1:1:1) used for microarray fabrication were labeled with FluoroLink Cy5-dCTP (Amersham) and used as reference DNA for signal ratio calculation (Cy3-Test / Cy5-Ref) (Specification, at page 32, lines 13-15). If there are any questions regarding the amendments, Applicants encourage the Examiner to call the undersigned collect.

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¹ *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 U.S. 722, 122 S.Ct. 1831, 1838, 62 USPQ2d 1705, 1710 (2002).

PATENT

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